

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.185 of 1988.

Date of decision : February 3, 1989.

1. Sri Lingaraj Rout aged 29 years, son of Jatadhari Rout, village Badagaon, P.O. Biraharekrushnapur, Dist.Puri.
2. Sri Manoranjan Tripathy, aged about 28 years, son of Dinabandhu Tripathy, village/P.O. Mahukhanda, District-Puri.
3. Sri Gopendra Kumar Mohanty, aged about 28 years, son of Somanath Mohanty, village- Bayalishabati, P.O.Gop, District-Puri.
4. Subash Chandra Jena, aged 25 years, son of Sudarsan Jena, At Sananlo, P.O.Parikud, Dist-Puri.
5. Prakash Chandra Barik, aged 27 years, son of late Nityananda Barik of vill. Bhunati, P.O. Charampa, Dist.Balasore.
6. Sanjib Kumar Mohanty, aged about 26 years, son of Sri Somanath Mohanty, of village Bayalishbati, P.O.Gop, Dist.Puri.

... Applicants.

Versus

1. Union of India, represented by the Secretary to the Ministry of Railways, Rail Bhawan, New Delhi-110001.
2. General Manager, South Eastern Railway, Garden Reach, Calcutta-700043.,
3. Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta-700043.
4. Railway Recruitment Board, Bhubaneswar, represented by Secretary, B-13 & B-14, IRC, Village Nayapalli, Bhubaneswar -12, Orissa.

... Respondents.

For the applicants ... M/s.Dr.S.C.Dash,
B.K.Patnaik,&
R.Ch.Rout, Advocates.

For the respondents 1 to 3 Mr.B.Pal,
Sr.Standing Counsel (Railways)

For the respondent No.4... Mr.L.Mohapatra,
Standing Counsel (Railways)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

J U D G M E N T

K. P. ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicants (six in number) challenge the legality of the order passed by the Chairman, Railway Recruitment Board, Bhubaneswar cancelling the empanelment of 31 persons for the post of Traffic Apprentices under the South Eastern Railway.

2. Shortly stated, the case of the applicants is that they were candidates for the post of Traffic Apprentices along with many others in response to an advertisement calling for applications from candidates to fill up such posts. On 12.7.1987 the applicants along with others took written examination and had also appeared in the Viva-voce test held on 30th & 31st July, 1987. The results were published on 28.8.1987 vide Annexure-2(a). 72 candidates were empanelled including the present applicants. On 28.4.88 each of the applicants was informed that his empanelment stood cancelled. This affects the applicants and 25 others. Hence, this application with the aforesaid prayer.

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3. In their counter, the respondents maintained that the total number of existing vacancies and anticipated vacancies till 1990 being 42 for Waltair, Khurda Road and Chakradharpur Divisions, by mistake 72 persons were empanelled and this mistake having been detected, necessarily the competent authority i.e. the Chairman, Railway Recruitment Board was compelled to cancel the empanelment of the last 31 incumbents empanelled in the list vide Annexure-3. No illegality having been committed in this regard the case is devoid of merit and is liable to be dismissed.

4. We have heard Dr.S.C.Dash, learned counsel for the applicant, Mr.B.Pal, learned Senior Standing Counsel (Railways) for Respondents 1 to 3 and Mr.L.Mohapatra, learned Standing Counsel (Railways) for Respondent No.4 i.e. Chairman, Railway Recruitment Board, at some length. Dr.Dash submitted before us that once the applicants have qualified themselves in the examination and having been empanelled, about which intimation had been sent to the applicants, cancellation of their enlistment in the panel is not only illegal but it is against all canons of justice, equity and fair-play particularly when there is some chance of more vacancies coming up within next two years. This submission of Dr.Dash was stiffly and vehemently opposed both by Mr.Pal and Mr.Mohapatra. Mr.Pal and Mr.Mohapatra contended that to err is human and this is a bonafide error. A mistake has been committed by enlisting 72 persons in the panel in place of 42 persons as there were only 42 vacancies including the anticipated vacancies.

till 1990. Both the counsel for the respondents contended that there has been no breach of principles of natural justice far less to speak of the order being bad as against equity, fairplay and good conscience. We have given our anxious consideration to the arguments advanced at the Bar by Dr. Dash and vehement opposition by Mr. Pal and Mr. Mohapatra. Although we are in complete agreement with Mr. Pal and Mr. Mohapatra that to err is human but when such error does not affect the Railway administration we think that such error should affect the applicants. Admittedly, the panel would remain in force for two years from the date of its publication. The applicants expect that more number of vacancies may come up within two years and therefore, their interest should not be in jeopardy for these two years. Even though the expectation of the applicants may not materialise yet we cannot say that it is completely unfounded. For several reasons under unforeseen circumstances, vacancies may occur and therefore, it would not affect the Railway administration in any way if these names of the applicants continue in the panel for a period of two years because if any vacancy occurs some of them may get an appointment. In view of the aforesaid circumstances, we do hereby quash the order passed by the Chairman, Railway Recruitment Board, Respondent No. 4 cancelling the empanelment of 31 persons mentioned in Annexure-3.

5. Thus, this application is accordingly disposed of

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leaving the parties to bear their own costs.

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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

9 agree

B. Patel
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Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
February 3, 1989/S. Sarangi.

